



Consisting of 240,000 acres on the Westside of the San Joaquin Valley

January 19, 2004

**JAMES E. O'BANION**

Chairman

**JOHN B. BRITTON**

Vice Chairman

**STEVE CHEDESTER**

Executive Director

**LARRY FREEMAN**

Water Resources Specialist

**JOANN TOSCANO**

Administrative Assistant

**MINASIAN, SPRUANCE,**

**BABER, MEITH, SOARES**

**& SEXTON LLP**

Legal Counsel

**CENTRAL CALIFORNIA  
IRRIGATION DISTRICT**

**James E. O'Banion**

President

**Christopher White**

General Manager

**SAN LUIS CANAL  
COMPANY**

**Jack Threlkeld**

President

**James D. Staker**

General Manager

**FIREBAUGH CANAL  
WATER DISTRICT**

**John B. Britton**

President

**Jeff Bryant**

General Manager

**COLUMBIA CANAL  
COMPANY**

**Roy Catania**

President

**Randy Houk**

General Manager

P.O. Box 2115

541 H Street

Los Banos, CA 93635

(209) 827-8616

Fax (209) 827-9703

e-mail: sjrecwa@sbcglobal.net

**VIA FACSIMILE & MAIL - 12 PAGES**

**(916) 464-4800**

Mr. Leslie F. Grober

Regional Water Quality Control Board

Central Valley Region

11020 Sun Center Drive # 200

Rancho Cordova, CA 95670-6114

**RE: *The Central Valley Regional Water Quality Control Board's  
(CVRWQCB) Public Review Draft Basin Plan Amendment Staff Report  
and Technical TMDL for the Control of Salt and Boron Discharges into  
the San Joaquin River (November 2003)***

Dear Mr. Grober:

These are the comments of the San Joaquin River Exchange Contractors Water Authority and its members Central California Irrigation District, San Luis Canal Company, Firebaugh Canal Water District, and Columbia Canal Company (Exchange Contractors) regarding the Central Valley Regional Water Quality Control Board's (CVRWQCB) Public Review Draft Basin Plan Amendment Staff Report and Technical TMDL for the Control of Salt and Boron Discharges into the San Joaquin River (November 2003).

We believe a fundamental component missing from the TMDL is a recognition that this, and other similar water quality standards and objectives, should focus on a watershed basis. As stated by EPA, the watershed approach to achieving and maintaining water quality is "a coordinating framework for management that focuses public and private sector efforts to address the highest priority water-related problems within geographic areas, considering both surface and ground water flow." (U.S. EPA Nonpoint Source Guidelines, 68 Fed. Reg. 205).

In developing or reviewing a plan for improving water quality in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, the RWRCB should be guided by broad policy considerations. These policy considerations cannot be forgotten when developing and implementing individual water quality control programs such as total maximum daily loads for target constituents to protect beneficial uses.

RECEIVED  
SACRAMENTO  
CVRWQCB  
JAN 23 PM 1:49

LFG

Mr. Leslie F. Grober

RE: ***The Central Valley Regional Water Quality Control Board's (CVRWQCB) Public Review Draft Basin Plan Amendment . . .***

January 19, 2004

Page 2

---

Two examples of broad policy considerations that we believe should be revisited and re-emphasized in this review are (i) regional economic impacts and (ii) historic water rights. In order to develop a logical plan that benefits the people of the state, regional economics must be considered. If a water quality control program disrupts the economy of an entire region, the general public will not support the effort and it will fail as a cooperative program. As a non-cooperative program, it will require extensive regulatory administrative civil liability procedures to mandate compliance.

A specific example where these broad policy considerations may conflict with a specific water quality control effort is in the process of developing and implementing water quality objectives for the San Joaquin River. Over sixty years ago, the federal and state governments made the decision to build the Central Valley Project (CVP). One of the key components of the CVP was Friant Dam. Friant Dam provided a firm water supply that allowed over 1 million acres in the San Joaquin Valley to prosper. Friant water and the water imported by the Delta Mendota Canal (DMC) are the backbone of the economy of the San Joaquin Valley. Families, businesses and communities have been built based on this joint federal-state policy decision. It is only prudent that the state of California and the federal government acknowledge their prior decisions and accept that the entire San Joaquin Valley has relied upon those decisions. This reliance cannot be forgotten when the RWRCB develops and implements water quality objectives for the San Joaquin River. Please recall that the SWRCB in 1959 rendered Decision 935 in which it specifically balanced the needed water supply for the Friant Division of the CVP and approved the Bureau of Reclamation permit that resulted in the exchange of water by which the Exchange Contractors received their water by the DMC in lieu of their San Joaquin River water right water. Given this approval, the RWRCB should also recognize that the Bay/Delta Estuary water quality was, and remains, affected by the removal of this large increment of mainstem San Joaquin River flow.

One specific decision that must take into account these prior decisions is the establishment of water quality standards and objectives to protect agricultural beneficial uses in the Delta region and the Westside of the San Joaquin Valley. The Federal and State Government's decision to build the CVP has fundamentally changed the achievable water quality in most segments of the San Joaquin River. Segments of the river that are most clearly impacted by these prior decisions are those segments that are dry or nearly dry as a result of the CVP and SWRCB's Decision 935. California and the United States understood certain segments of the San Joaquin River would be dry after the completion of the CVP. They also understood that water flowing into other sections of the river would be limited to seepage and return flow water. The decision to build Friant Dam was the right decision, and the region's reliance on that action must be considered when establishing water quality standards and objectives to protect agricultural and other beneficial

Mr. Leslie F. Grober

RE: ***The Central Valley Regional Water Quality Control Board's (CVRWQCB) Public Review Draft Basin Plan Amendment . . .***

January 19, 2004

Page 3

---

uses. Ignoring prior decisions when addressing current societal concerns will result in illogical and inequitable policies.

The SWRCB, the San Joaquin River stakeholders, and society as a whole must look at the larger issues when attempting to improve Bay/Delta Estuary water quality. If we acknowledge these broad policy considerations and the impacts on achievable water quality by our previous decisions, we can make appropriate, scientifically-based water quality improvements in a logical and effective manner. The federal and state government's decision to impose manmade hydro-modifications upon the San Joaquin River, and the entire region's reliance on that decision cannot be ignored.

Additionally, historic water rights must be respected in order to recognize and protect the property rights represented by California's system of water rights. If we do not acknowledge these broad policy considerations, we will not be able to develop a plan that is in the public interest.

With this background and hopefully agreed underpinning, there are some specific areas where we believe that the TMDL should be modified.

#### **COORDINATING THE SALT TMDL WITH THE NECESSITY OF DRAINAGE MEASURES IN THE SAN JOAQUIN RIVER WATERSHED**

Salinity entering the Bay Delta Estuary through the San Joaquin River whether expressed in terms of exceeding the Vernalis salinity standards or in terms of TMDL for salt and boron or in terms of selenium loads or concentrations at locations entering the San Joaquin River or its tributaries are a result of an incomplete water resources development plan. The SWRCB recognized this in Decision 1641 when, after finding that the regional water quality problems on the Westside of the San Joaquin Valley were caused by the Bureau of Reclamation's operation of the Central Valley Project, it required the Bureau to develop and submit its plan to provide for drainage as a condition of its water right permits. The Central California Irrigation District and Firebaugh Canal Water District, along with other interested parties, caused the 9<sup>th</sup> Circuit Court of Appeals to recognize this breach of the Bureau's obligation to provide drainage as required by the San Luis Act in Firebaugh v. United States (2000) 203 F.3d 568 when the Court stated that the United States must move forward to choose and implement a drainage solution. It makes no sense for the RWQCB to set water quality standards without recognizing that only completion of the water resources development plan will improve water quality.

The San Joaquin River Exchange Contractors and other interested San Luis Unit Bureau Contractors have developed a plan that can manage drainage conditions and provide for

Mr. Leslie F. Grober

RE: ***The Central Valley Regional Water Quality Control Board's (CVRWQCB) Public Review Draft Basin Plan Amendment . . .***

January 19, 2004

Page 4

---

treatment of and physical removal of salts from a portion of the water entering the San Joaquin River and South Delta. The cost is estimated at \$128 million and implementation over 8 years with eventual treatment at a cost of approximately \$700 per acre foot of concentrated drainage flows. Hopefully the treated water would have a market value to offset a portion of these treatment costs. One can only ask how a 1995 Water Quality Control Plan review can be realistic and useful unless it examines implementing measures such as these in light of the failure of the Bureau to provide for a comprehensive drainage project for the Westside of the San Joaquin Valley. Moreover, dealing with, achieving and maintaining water quality is, according to U.S. EPA "a coordinating framework for management that focuses public and private sector efforts to address the highest priority water-related problems within geographic areas, considering both surface and ground water flow." (USEPA Non-Point Source Guidelines, 68 Fed. Reg. 205). Only a regional plan such as that developed by the Exchange Contractors and others can hope to achieve improved water quality conditions in the San Joaquin River watershed and the Bay-Delta Estuary.

### **USE OF FLAWED DATA**

The Draft Basin Plan Amendment set out the proposed implementation program for the control of salinity and boron in the Lower San Joaquin River. The *Technical TMDL Report*, Appendix 1, constitutes a methodology for achieving salinity and boron objectives on the Lower San Joaquin River. The actual salinity objective may not be technically part of the Basin Plan Amendment or the technical TMDL development process; however, the objective is the basis for the ultimate load allocations; and, consequently, we feel that it is necessary to briefly address the appropriateness of the salinity objective for Vernalis. According to the Technical TMDL report (page 21), one of the bases for the 700  $\mu\text{S}/\text{cm}$  objective is the August 1987 State Water Board Order No. 85-1 Technical Committee Report titled *Regulation of Agricultural Drainage to the San Joaquin River*. The report recommended a 700  $\mu\text{S}/\text{cm}$  criterion between April 1 and August 31 to fully protect irrigated agriculture. This recommendation has serious scientific flaws.

The 700  $\mu\text{S}/\text{cm}$  criterion was established to protect crops such as beans, one of the most salt sensitive crops in the delta; however, this criterion seems to be arbitrary in that it does not take into account all the factors that influence a crop's water quality needs. The water quality needed to grow a crop is a function of the total applied water, the water quality and the crop's soil salinity needs. This relationship is described in detail in *Water Quality for Agriculture* by R.S. Ayers and D.W. Westcot (Ayers & Westcot, 1989), a 1989 Food and Agriculture Organization of the United Nations irrigation and drainage paper.

According to Ayers & Westcot, in order to meet a crop's water needs, additional water can be applied to offset the increased salinity of the applied water. This is known as a leaching

Mr. Leslie F. Grober

RE: ***The Central Valley Regional Water Quality Control Board's (CVRWQCB) Public Review Draft Basin Plan Amendment . . .***

January 19, 2004

Page 5

---

requirement. The inherent inefficiencies of customary irrigation techniques in the delta allow for increased salinity of applied water above the 700  $\mu\text{S}/\text{cm}$  criterion. Additionally, Ayers & Westcot state that rainfall must be considered in estimating the leaching requirement and water quality needs of a crop. Rainfall will leach salts from the soil and help maintain suitable soil salinity. Furthermore, Ayers & Westcot determined that the timing of leaching is not critical provided the crop tolerance is not exceeded for extended or critical periods of time. The 700  $\mu\text{S}/\text{cm}$  criterion does not take into account the beneficial effects of leaching from normal irrigation or rainfall. Additionally, the current criterion does not consider naturally occurring variations in water quality over multiple years that will leach the soil and maintain proper soil salinity.

Not only does scientific research indicate that the current criterion is flawed, but practical experience does not support the 700  $\mu\text{S}/\text{cm}$  criterion. Delta Mendota Canal water that often has a higher EC than 700  $\mu\text{S}/\text{cm}$  is successfully used to grow beans, lettuce, almonds, and numerous other salt-sensitive crops. This real-world experience is good evidence that the 700  $\mu\text{S}/\text{cm}$  criterion is not appropriate and that we should consider revising the salinity objective for Vernalis. The current objective is lower than necessary to protect beneficial uses in the Delta and it prevents upstream water rights holders from maintaining a salt balance on their land. As the TMDL staff report is primarily a methodology for achieving an objective, and this methodology can be applied to any future Vernalis salinity objective, we will reserve more detailed comments on the objective for a different forum and focus our remaining comments on the proposed TMDL.

### **WATER RIGHTS PRIORITIES MUST BE RESPECTED**

While the Technical TMDL is not intended to interfere with water rights priorities, it will impact water rights if it is not revised. The connection between water rights and water quality improvement efforts is undeniable. The State Water Resources Control Board recognized this connection in D-1641 when it assigned responsibility to the Central Valley Project (CVP) for meeting the Vernalis water quality objective. Unfortunately, this TMDL does not recognize junior appropriators' responsibility to fully mitigate water quality impacts. According to D-1641, the CVP is the principal cause of degraded water quality at Vernalis. Without the latter in time appropriations, there would be more flow in the river and the total salinity load discharged into the river would be less. A load-based system is not the appropriate method to improve water quality while recognizing water rights. We believe that water rights priorities should be respected and that junior appropriators should be held responsible for the problems that they created. Specifically, the findings of D-1641 should be followed and the CVP should be held primarily responsible for meeting Vernalis salinity objectives.

Mr. Leslie F. Grober

RE: ***The Central Valley Regional Water Quality Control Board's (CVRWQCB) Public Review Draft Basin Plan Amendment . . .***

January 19, 2004

Page 6

---

If it were essential to establish a load based system, it would be necessary to develop a methodology that equitably allocates the responsibility for water supply loads and recognizes that applied water will mobilize some salt. The proposed TMDL attempts to incorporate these concepts by including a Consumptive Use Allowance and a Supply Water Relaxation. We applaud the staff for including these components but we believe that both the Consumptive Use Allowance and the Supply Water Relaxation must be refined. Our proposed revisions are explained below. Although we are offering suggestions to improve this TMDL, we believe that a load-based system is not appropriate for a river with as many man caused hydrologic modifications as the San Joaquin River.

### **THE PROPOSED COMPLIANCE SCHEDULE**

The proposed Basin Plan Amendment establishes implementation priorities for sub-areas based upon the historical salt loading per acre in the sub-area. It proposed that those areas with the greatest unit area salt loading be given the highest priority. The premise seems to be that the Regional Board should focus its efforts on the most significant sources of salt and boron discharges to the river. This rationale makes sense if applied to allocating resources to help implement solutions to the salt loading problem. If society focuses resource on the area with the largest problem they will likely get the most water quality improvement for the resources invested. Those areas with the largest historical salt discharges per acre have the most difficult problem and need the most financial and technical assistance to help solve the problem.

The proposed Basin Plan Amendment inappropriately uses these priorities to establish a compliance schedule. Although the analysis recognizes that certain sub-areas have a significantly greater salt loading problem than other sub-areas the compliance schedule gives the least amount of time to solve the problem to those areas with the greatest problem. It is not logical or equitable to require those areas with the most difficult problem to solve it in the least amount of time. The compliance schedule for high priority areas should be extended to 20 years for all water year types.

Sub-areas with the greatest problem need adequate time to develop and implement discharge control technologies to solve inherent problems. The problems associated with maintaining a salt balance in the soil and meeting current water quality objectives for salt and boron will certainly be extraordinarily expensive and may turn out to be insurmountable. Although it would be nice if we could magically solve the salinity problem on the west-side of the San Joaquin Valley by simply adopting a compliance schedule, everyone recognizes that the problem is significantly more complicated. Given the magnitude and complexity of the problem it is unrealistic to require high priority regions to meet objectives in as little as eight years. A twenty-year compliance schedule will prove to be an enormous challenge.

Mr. Leslie F. Grober

RE: *The Central Valley Regional Water Quality Control Board's (CVRWQCB) Public Review Draft Basin Plan Amendment . . .*

January 19, 2004

Page 7

---

### **THE MANAGEMENT AGENCY AGREEMENT WITH THE USBR SHOULD BE AGGRESSIVELY PURSUED**

The State Water Resource Control Board, the Central Valley Regional Board and the federal courts all understand that the United State Bureau of Reclamation (USBR) have to become actively engaged in the solutions to San Joaquin River water quality problems. For decades, the Exchange Contractors have been attempting to motivate the USBR to implement projects to solve this problem. Over the years, the USBR has shown its unwillingness to engage in this process. By giving the USBR two years to enter into a Management Agency Agreement (MAA), the proposed Basin Plan Amendment allows the USBR two more years to drag their feet. This delay is unnecessary and unwise. The MAA deadline should be revised to reflect the deadline in D-1641. That deadline is December 2004.

### **TECHNICAL TMDL METHODOLOGY**

The TMDL attempts to incorporate two basic goals that are essential to an equitable and effective salinity TMDL for the San Joaquin River. The first goal is maintaining a salt balance in the region. The San Joaquin Valley is one of the most productive agricultural regions in the world. Agriculture drives the economy in the Valley and must remain viable in order to maintain the local communities. History has proven that if agricultural land does not maintain a salt balance it will become unproductive and the dependent economy will collapse. California and the entire nation cannot afford to lose the agricultural resources of the San Joaquin Valley.

The second essential element of this TMDL is the acknowledgement of the Central Valley Project's (CVP) contribution to the water quality problems on the San Joaquin River. The impacts of the CVP are primarily due to the reduced flows on the River and the increased salt load imported to the region in CVP water. If the TMDL did not recognize these impacts it would place an inequitable burden on parties that are not truly responsible for the problem. These CVP impacts are significant and must be recognized not only in any TMDL development and implementation plan but also in the process of setting beneficial uses and water quality objectives on the San Joaquin River.

While both the need for a salt balance and the CVP's contribution to the problem are acknowledged in this TMDL, neither idea is fully addressed. The following comments will outline the deficiencies in the approach taken in this TMDL to adequately address these and other concerns.

Mr. Leslie F. Grober

RE: *The Central Valley Regional Water Quality Control Board's (CVRWQCB) Public Review Draft Basin Plan Amendment . . .*

January 19, 2004

Page 8

---

## **BASE LOAD ALLOCATION**

### **Design Flow**

While one of the goals of the TMDL is to maintain a salt balance, the design flow does not recognize this goal. The lowest historic flows are used as the design flows in order to satisfy an appropriate margin of safety. This margin of safety is excessive. The chosen design flows are based on the lowest flow of the given month for the 73-year period from 1922-1994. By using this design flow, salt discharge limits will be over restrictive in almost every month. This conservative approach is unwarranted and will result in the region not achieving a true salt balance. Delta agriculture, the limiting beneficial use in this TMDL, does not require such a restrictive allocation because the impacts from salt result from longer exposure than one month in a 73-year period. Since the design flows do not allow for a true salt balance, they should be revised to reflect the true needs of the beneficial use they are intended to protect.

The design flow is used to predict future flows in the river. These historic low flows are accepted as a given but there is very little discussion in the TMDL about the reasons for these historic flows. The CVP, as well as many regional water projects, have impacted the current flows at Vernalis. This TMDL does not attempt to assign responsibility to the many projects that have reduced flows in the river and exported water out of the basin. While the CVP is allocated some responsibility for meeting salinity objectives due to their imported salt neither the CVP nor parties like the City of San Francisco are held responsible for their impacts on water quality due to out of basin exports. This oversight results in an inequitable allocation of responsibility in that it does not take into account the relative priority of water rights among the parties. It is essential that the effort to meet water quality objectives does not ignore the water right priority system. All out of basin exports of water impact water quality on the San Joaquin River, therefore they share in the responsibility curing their share of the problem.

## **CONSUMPTIVE USE ALLOWANCE**

The Consumptive Use Allowance calculation is based upon a 73 percent seasonal application efficiency (SAE). This SAE is an on-farm value and not a district or regional value. Most districts reuse water and therefore the SAE district wide would be much greater than 73 percent. Use of a field SAE is not appropriate. A district or regional SAE should be used to determine the trigger value for the consumptive use allowance.



Mr. Leslie F. Grober

RE: ***The Central Valley Regional Water Quality Control Board's (CVRWQCB) Public Review Draft Basin Plan Amendment . . .***

January 19, 2004

Page 9

---

## **SUPPLY WATER RELAXATION**

The Exchange Contractors, consisting of Central California Irrigation District, San Luis Canal Company, Firebaugh Canal Water District and Columbia Canal Company, irrigate approximately 240,000 acres on the west side of the San Joaquin Valley between Mendota in the south and Crows Landing in the north. They have a pre-1914 right to divert water from the San Joaquin River.

The United States, in 1939, purchased water from the Exchange Contractors' predecessors, Miller and Lux. Also in 1939, the Exchange Contractors' predecessors and the United States entered into the first Exchange Contract with the Bureau of Reclamation. Under the Exchange Contract, they agreed not to exercise their pre-1914 water right to divert water from the San Joaquin River so long as the Bureau provides them their water – approximately 840,000 acre feet a year – from the Sacramento River watershed delivered by the Central Valley Project's Delta pumps through the Delta Mendota Canal (DMC) instead of from the San Joaquin River.

Since 1951, the Exchange Contractors have been receiving their water from the DMC rather than from the San Joaquin River. Under the Exchange Contract with the Bureau, the Exchange Contractors agree not to exercise their pre-1914 water rights so long as the Bureau provides them substitute water delivered by the CVP's Delta pumps through the DMC. The DMC water has a much higher salt content than San Joaquin River water by several orders of magnitude.

For example, San Joaquin River water above Friant Dam is generally thought to have a quality of 25 to 50 parts per million Total Dissolved Solids (TDS). Compare the substitute water delivered to the Exchange Contractors which has the following water quality parameters set forth in the Exchange Contract:

800 TDS	Mean daily water quality
600 TDS	Mean monthly water quality
450 TDS	Mean annual water quality
400 TDS	Five-year average water quality.

Compare the quality of this delivered water with the Vernalis water quality standard –

462 TDS	April through August
654 TDS	September through March

-- and it is easy to see how the Exchange Contractors cannot possibly meet the water quality standards contemplated by the salt and boron TMDL being considered by the Regional Board.

Mr. Leslie F. Grober

RE: *The Central Valley Regional Water Quality Control Board's (CVRWQCB) Public Review Draft Basin Plan Amendment . . .*

January 19, 2004

Page 10

---

The Supply Water Relaxation (SWR) is an essential component of the TMDL. The Regional Board proposes to give the Exchange Contractors approximately a 50% salt load relaxation, and while we understand that number is an arbitrary figure, we appreciate the accommodation. However, the 50% relaxation is based upon the Bureau agreeing to enter into the Management Agency Agreement proposed in this TMDL, and that may be a problem because the Bureau may refuse to do so. Responsibility for the salt imported into the region above background loads is properly allocated to the ultimate importer. Although this responsibility is assigned to the salt importer, the water user is relieved of only 50 percent of this salt load. The stated rationale for this disconnect is the need for an additional margin of safety. This additional margin of safety is unwarranted. The SWR is based upon the minimum historical deliveries for each month/water year type. The use of the minimum deliveries is an implicit margin of safety. Imposing an additional margin of safety is unwarranted and illogical.

If it were reasonable to assume that an additional margin of safety is needed, a 50 percent margin of safety is excessive and arbitrary. The water user that receives this imported salt is the party that is burdened with the additional salt load therefore the same water user should be relieved of the entire imported salt load that is in excess of the background loads. If this connection is not made parties that are not impacted by the poor quality imported water will receive an unintended benefit at the expense of the truly impacted parties.

The State Water Resource Control Board found in D-1641 that the actions of the CVP are the principal causes of salinity concentrations exceeding water quality objectives at Vernalis. The parties that receive excessive salt loads in their supply water realize the full impacts of those salinity loads. They must discharge those salts in order to maintain a salt balance on their lands. The parties that receive those loads should be given full credit for the imported salt. The 50% reduction in the current TMDL places an undue burden on the lands that are receiving the excess salt loads. If an additional margin of safety is needed that margin of safety should be provided by the USBR. The USBR is the party responsible for importing the salts therefore they should be held accountable for the impacts associated with that importation, including any margin of safety. An appropriate margin of safety could be added to the USBR's responsibility above the salt loads imported to the region.

### **REAL-TIME RELAXATION**

Given the overly conservative design flows of this TMDL, the real-time component is imperative. Unfortunately, the real-time program is not well developed. Significant effort is needed to develop an effective real-time management program. Implementation of this overly restrictive TMDL without a well-developed real-time program will impose significant economic

Mr. Leslie F. Grober

RE: *The Central Valley Regional Water Quality Control Board's (CVRWQCB) Public Review Draft Basin Plan Amendment . . .*

January 19, 2004

Page 11

---

impacts on society without any real benefits. Furthermore, a real-time program will protect beneficial uses of water in the San Joaquin Valley.

Regional Board staff acknowledges the necessity of an effective real-time management program. They recognize that limiting discharges to fixed load allocations could result in a net salt build-up in the LSJR watershed because salts would continue to be imported into the watershed in supply water but salt exports would be significantly restricted. Regional Board staff also acknowledges that implementation of the real time management program will require a coordinated effort among the dischargers in the LSJR watershed. The technical TMDL states that dischargers will need to develop and maintain the necessary operational and facilities infrastructure to provide accurate forecasts of assimilative capacity and to manage discharges to coincide with real-time conditions. The proposed Basin Plan Amendment requires that dischargers must participate in an approved real-time management program in order to be able to utilize real-time load allocations. The technical TMDL report states that development of a proven real-time management framework will be a prerequisite to the utilization of the additional real-time load allocation. (Appendix 1 page 81)

Throughout the proposed Basin Plan Amendment and staff documents the language seems to indicate that the only way a discharger can participate in the real-time management program is through the conditional waiver program. The Amendment seems to require all discharges operating under waste discharge requirement to meet the fixed base load allocations. The real-time management option should be available to dischargers operating under waste discharge requirements as well as the conditional waiver program.

We agree that an effective real-time program is essential to meet the challenge of achieving salinity objectives on the LSJR. However the proposed compliance schedule does not take into account the complexity of the problem and the time and money necessary to develop a proven real-time management program. A minimum of twenty years will be needed to develop and fully implement an effective real-time management program for the Grassland sub-area.

## **CONCLUSION**

The Exchange Contractors are convinced that California can protect water quality, maintain viable agriculture, and respect water rights priorities. However, we must continue to look at the broader policy concerns when implementing specific programs. Implementation of this overly restrictive TMDL without reasonable modifications, including logical water quality objectives, a fully developed real-time program, and a well developed plan to coordinate all TMDLs in the basin, will not maintain a salt balance in the valley. Without a salt balance, agriculture will ultimately be eliminated from many regions. The economic and societal impacts of not

Mr. Leslie F. Grober

RE: *The Central Valley Regional Water Quality Control Board's (CVRWQCB) Public  
Review Draft Basin Plan Amendment . . .*

January 19, 2004

Page 12

---

maintaining viable agriculture in the Valley will be far reaching. The basic assumptions of the TMDL need to be sound, consistent with prior State Board decisions, and equitable. Society must not create larger problems than those they are attempting to solve. The changes we have suggested in this TMDL will help achieve society's goal of equitably protecting water quality. We look forward to working with the Regional Board and its staff on water quality issues in the Central Valley.

Sincerely,



Steve Chedester,  
Executive Director

cc: SJRECWA Board Members  
Honorable Barbara Matthews  
Honorable David Cogdill  
Honorable Greg Aghazarian  
Honorable Steve Samuelian  
Honorable Sarah Reyes  
Honorable Jeff Denham  
Honorable Chuck Poochigian  
Honorable Dean Florez  
Mr. Kirk Rodgers, U.S. Bureau of Reclamation  
Mr. Bill Luce, U.S. Bureau of Reclamation  
San Joaquin River Resource Management Coalition  
San Joaquin River Task Force  
Mr. Lowell Ploss, San Joaquin River Group Authority  
Mr. Allen Short, San Joaquin River Group Authority